

Message Text

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ACTION L-03

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FM AMEMBASSY NASSAU

TO SECSTATE WASHDC PRIORITY 5196

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E.O. 11652: N/A

TAGS: CPRS, PFOR, BF

SUBJECT: HUGHES INJUNCTION DISMISSED

REF: NASSAU 183

1. ON FEBRUARY 1, BAHAMIAN SUPREME COURT JUDGE MAXWELL THOMPSON DISMISSED THE TEMPORARY INJUNCTION HE HAD GRANTED IN HUGHES FAVOR THREE DAYS EARLIER. JUSTICE THOMPSON'S RULING COVERED NOT ONLY THE MOTION FOR INJUNCTION, WHICH HAD BECOME (AT LEAST FOR THE MOMENT) MOOT WITH THE EARLIER DISMISSAL IN NEVADA OF THE HUGHES INDICTMENT, BUT THE TWO MOTIONS FOR DECLARATORY JUDGEMENT SOUGHT BY HUGHES AS WELL.

2. THE RULING FOLLOWED A HEARING SOUGHT BY THE GCOB ATTORNEY GENERAL'S OFFICE TO CHALLENGE THE JANUARY 29 TEMPORARY INJUNCTION. IN ARGUMENT DURING THE HEARING, CROWN COUNSEL NEVILLE SMITH SAID THAT ATTORNEY GENERAL ADDERLEY WISHED TO CHALLENGE THE JANUARY 29 ACTION DESPITE THE FACT THAT, WITH THE DISMISSAL OF THE NEVADA INDICTMENT, THE FACTUAL ISSUE SEEMED MOOT. HUGHES ATTORNEY KENDALL ISAACS ADMITTED THAT THE BASIS FOR THE MOTIONS FOR DECLARATORY JUDGEMENT AND INJUNCTION HAD DISAPPEARED, BUT SMITH ARGUED THAT A MERE WITHDRAWAL OF THE MOTIONS WOULD NOT BE SUFFICIENT.

3. SMITH'S THESIS WAS THAT QUOTE THE INJUNCTION AGAINST THE CHIEF MAGISTRATE AND OTHER STIPENDARY AND CIRCUIT

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MAGISTRATES AFFECTS SUBSTANTIALLY THE ATTORNEY GENERAL

AND THE CROWN IN THE EXERCISE OF THE EXCESSIVE AUTHORITY OF THE BAHAMAS AND NO INJUNCTION MAY BE MADE AGAINST AN OFFICER OF THE CROWN IN CIRCUMSTANCES WHERE THE EFFECT OF GRANTING THE INJUNCTION WOULD BE TO GIVE RELIEF AGAINST THE CROWN WHICH COULD NOT HAVE BEEN OBTAINED IN PROCEEDINGS AGAINST THE CROWN UNQUOTE. SMITH ALSO ARGUED, DESPITE HUGHES ATTORNEYS' ARGUMENTS THAT ARREST PENDING EXTRADITION WOULD BE AN UNCONSTITUTIONAL DEPRIVATION OF PERSONAL LIBERTY, THAT ARTICLE (1) (G), OF THE BAHAMIAN CONSTITUTION IN FACT SPECIFICALLY PERMITS ARREST QUOTE FOR THE PURPOSE OF EFFECTING THE EXPULSION, EXTRADITION OR OTHER LAWFUL REMOVAL (OF ANYONE) FROM THE BAHAMAS UNQUOTE.

4. WITHOUT COMMENT, JUSTICE THOMPSON THEREUPON DISMISSED ALL THE PROCEEDINGS SOUGHT BY HUGHES, INCLUDING THE TEMPORARY INJUNCTION.
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